

who is an employee of the Department. In addition, the Department will require any other person who participates at the invitation of the Department in the selection process to sign a certification that he or she will be bound by the provisions of this part.

(b) *Applicability.* The prohibitions contained in this part apply to conduct occurring on or after June 12, 1991.

**§ 4.26 Permissible and impermissible disclosures.**

(a) Notwithstanding the provisions of Section 103, an employee is permitted to disclose information during the selection process with respect to:

(1) The requirements of a HUD program or programs, including unpublished policy statements and the provision of technical assistance concerning program requirements, provided that the requirements or statements are disclosed on a uniform basis to any applicant or potential applicant. For purposes of this part, the term "technical assistance" includes such activities as explaining and responding to questions about program regulations, defining terms in an application package, and providing other forms of technical guidance that may be described in a NOFA. The term "technical assistance" also includes identification of those parts of an application that need substantive improvement, but this term does not include advising the applicant how to make those improvements.

(2) The dates by which particular decisions in the selection process will be made;

(3) Any information which has been published in the FEDERAL REGISTER in a NOFA or otherwise;

(4) Any information which has been made public through means other than the FEDERAL REGISTER;

(5) An official audit, inquiry or investigation, if the disclosure is made to an auditor or investigator authorized by the HUD Inspector General to conduct the audit or investigation;

(6) Legal activities, including litigation, if the disclosure is made to an attorney who is representing or is otherwise responsible to the Department in connection with the activities; or

(7) Procedures that are required to be performed to process an application, e.g., environmental or budget reviews, and technical assistance from experts in fields who are regularly employed by other government agencies, provided that the agency with which the expert is employed or associated is not an applicant for HUD assistance during the pending funding cycle.

(b) An authorized employee, during the selection process, may contact an applicant for the purpose of:

(1) Communication of the applicant's failure to qualify, after a preliminary review for eligibility and completeness with respect to his or her application, and the reasons for the failure to qualify, or the fact of the applicant's failure to be determined to be technically acceptable after a full review; or

(2) Clarification of the terms of the applicant's application. A clarification, for the purpose of this paragraph (b), may include a request for additional information consistent with regulatory requirements.

(c) Prohibition of advance disclosure of funding decisions. During the selection process an employee shall not knowingly disclose any covered selection information regarding the selection process to any person other than an employee authorized to receive that information.

(1) The following disclosures of information are, at any time during the selection process, a violation of Section 103:

(i) Information regarding any applicant's relative standing;

(ii) The amount of assistance requested by any applicant;

(iii) Any information contained in an application;

(2) The following disclosures of information, before the deadline for the submission of applications, shall be a violation of Section 103:

(i) The identity of any applicant; and

(ii) The number of applicants.

**§ 4.28 Civil penalties.**

Whenever any employee knowingly and materially violates the prohibition in Section 103, the Department may impose a civil money penalty on the employee in accordance with the provisions of 24 CFR part 30.